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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

William E. Noonan
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Fort Myers, FL 33919

In re Application of
Brian D. Rump
Application No. 09/849,032
Filed: May 4, 2001
For: BRACKET FOR A SAWHORSE AND
OTHER MULTIPLE PIECE STANDS

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is a decision on the applicant's petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on May 30, 2003.

The petition is **GRANTED**.

A review of the file record indicates than an Office action was mailed to applicant on October 2, 2002. Since a response to the October 2, 2002 Office action has not been received, the application is held abandoned, although a Notice of abandonment has yet been mailed.

There is a strong presumption that Office communication properly addressed and delivered to the United States Postal Services, was in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

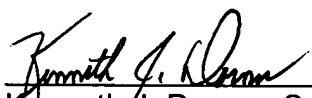
The showing required to establish non-receipt of an Office communication must include all of the following requirements:

- (1) A statement from the practitioner stating the Office communication was not received by the practitioner;
- (2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and
- (3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include a copy of the list of all responses in the practitioner's office with the due date of January 2, 2003. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G.53 (November 16, 1993).

Practitioner submits a statement that the above-noted Office action was not received by the practitioner. Practitioner also attests to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered as being due was also submitted. This evidence is acceptable proof of non-receipt as provided by 1156 OG 53.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the abandonment, return the application to pending status and to redate and remail the Office action of October 2, 2002 based on the reasoning in the case of *Delgar v. Schuyler*, 172 USPQ 513.



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KJD/tpl: 7/11/03